

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

HENRY HUNTSMAN,

Plaintiff,

v. // CIVIL ACTION NO. 1:16CV1  
(Judge Keeley)

MARK MILES, C.O. 1; JOANIE HILL,  
Associate Warden of Programs;  
WYSOCKIE, Corporal; ASHLEY WHITE;  
RANDY MILLER, Associate Warden of  
Operations; MIKE HILL, Associate  
Warden of Security,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 20]  
AND DISMISSING § 1983 COMPLAINT WITH PREJUDICE [DKT. NO. 1]

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On January 4, 2016, the pro se plaintiff, Henry Huntsman ("Huntsman"), filed this complaint pursuant to 42 U.S.C. § 1983, alleging that the defendants violated his Eighth Amendment rights by holding him in a cell without running water for nine days (Dkt. No. 1). Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred Huntsman's complaint to the Honorable Robert W. Trumble, United States Magistrate Judge, for initial review.

In a Report and Recommendation ("R&R") entered on October 5, 2017, Magistrate Judge Trumble recommended that the Court dismiss the complaint with prejudice for failure to state a claim upon which relief can be granted (Dkt. No. 20). More particularly, the R&R reasoned that Huntsman failed to allege a cognizable Eighth Amendment claim for cruel and unusual punishment. The complaint simply "does not establish that the Plaintiff was denied the

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minimal civilized measures of life's necessities or that he was exposed to a substantial risk of harm." Id. at 4-5.

The R&R also informed the parties of their right to file "written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections." Id. at 6. It further warned that the failure to do so may result in waiver of the right to appeal. Id. Although the Clerk sent a copy of the R&R to Huntsman by certified mail at his last known address, the mail was returned as undeliverable (Dkt. Nos. 21; 22). Neither party has filed any objections to the R&R.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). On the other hand, "the Court may adopt, without explanation, any of the magistrate judge's recommendations to which the prisoner does not object." Dellacirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold those portions of a recommendation to which no objection has been made unless they are "clearly erroneous." See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

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Because neither party has objected, the Court is under no obligation to conduct a de novo review. Dellacirprete, 479 F. Supp. 2d at 603-04. Upon review of the R&R and the record for clear error, the Court:

- 1) **ADOPTS** the R&R (Dkt. No. 20); and
- 2) **DISMISSES** the complaint **WITH PREJUDICE** (Dkt. No. 1).

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to transmit copies of this Order to counsel of record and the pro se plaintiff, certified mail and return receipt requested, to enter a separate judgment order, and to remove this case from the Court's active docket.

DATED: December 19, 2017

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE